

House File 377 - Introduced

HOUSE FILE 377

BY NUNN

A BILL FOR

1 An Act relating to criminal sentencing by modifying criminal
2 penalties for cocaine base, making inapplicable certain
3 provisions relating to mandatory sentences, mandatory
4 minimum sentences, limitations on parole and work release,
5 and limitations on earned time.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401, subsection 1, paragraph a,
2 subparagraph (3), Code 2017, is amended to read as follows:

3 (3) More than two hundred fifty grams of a mixture or
4 substance described in subparagraph (2) which contains cocaine
5 base.

6 Sec. 2. Section 124.401, subsection 1, paragraph b,
7 subparagraph (3), Code 2017, is amended to read as follows:

8 (3) More than ~~ten~~ fifty grams but not more than two hundred
9 fifty grams of a mixture or substance described in subparagraph
10 (2) which contains cocaine base.

11 Sec. 3. Section 124.401, subsection 1, paragraph c,
12 subparagraph (3), Code 2017, is amended to read as follows:

13 (3) ~~Ten~~ Fifty grams or less of a mixture or substance
14 described in subparagraph (2) which contains cocaine base.

15 Sec. 4. Section 124.413, subsection 3, Code 2017, is amended
16 to read as follows:

17 3. A person serving a sentence pursuant to section 124.401,
18 subsection 1, paragraph "b" or "c", shall be denied parole
19 or work release, based upon all the pertinent information as
20 determined by the court under [section 901.11, subsection 1](#),
21 until the person has served between one-half of the minimum
22 term of confinement prescribed in [subsection 1](#) and the maximum
23 indeterminate sentence prescribed by law, except that a person
24 serving a sentence pursuant to section 124.401, subsection
25 1, paragraph "c", who does not have a prior forcible felony
26 conviction shall not be required to serve a minimum term of
27 confinement as prescribed by this section.

28 Sec. 5. NEW SECTION. 901.5C Standard sentence.

29 1. a. As used in this section, "*standard sentence*" means
30 a sentencing option whereby the court at sentencing allows a
31 person to be sentenced within the parameters of the misdemeanor
32 or felony offense classification and makes inapplicable other
33 provisions, or any combination of such provisions, that would
34 otherwise have the effect of mandating a term of confinement,
35 lengthening the term of confinement, limiting the accumulation

1 of earned time pursuant to section 903A.2, subsection 1,
2 paragraph "b", limiting eligibility for parole or work release,
3 or imposing an additional sentence commencing upon completion
4 of the underlying sentence pursuant to chapter 903B.

5 **b.** (1) If a person is sentenced to a term of confinement
6 under a standard sentence classified as a felony, the term of
7 the person's sentence shall be as provided in section 902.9
8 applicable to the classification of the offense.

9 (2) If a person is sentenced to a term of confinement under
10 a standard sentence classified as a misdemeanor, the term of
11 the person's sentence shall be as provided in section 903.1,
12 with the place of confinement as provided in section 903.4.

13 **2.** The court may impose a standard sentence if the court
14 finds all of the following:

15 **a.** A compelling reason that imposing a sentence other than
16 a standard sentence would result in a substantial injustice to
17 the defendant.

18 **b.** A sentence other than a standard sentence is not
19 necessary for the protection of the public.

20 **3.** A standard sentence shall not be imposed for the
21 following offenses:

22 **a.** Operating while intoxicated in violation of section
23 321J.2.

24 **b.** Any class "A" felony offense.

25 **c.** Murder in the second degree in violation of section
26 707.3.

27 **d.** Domestic abuse assault in violation of section 708.2A.

28 **e.** Assault in violation of individual rights in violation of
29 section 708.2C, subsection 2, 3, or 4.

30 **f.** Assault while participating in a felony, in violation of
31 section 708.3, subsection 1.

32 **g.** Assaults on persons engaged in certain occupations in
33 violation of section 708.3A.

34 **h.** Inmate assaults in violation of section 708.3B.

35 **i.** Willful injury in violation of section 708.4.

- 1 *j.* Administering harmful substances in violation of section
2 708.5.
- 3 *k.* Intimidation with a dangerous weapon in violation of
4 section 708.6.
- 5 *l.* Harassment in violation of section 708.7, subsection 2.
- 6 *m.* Going armed with intent in violation of section 708.8.
- 7 *n.* Hazing in violation of section 708.10, subsection 3.
- 8 *o.* Stalking in violation of section 708.11, subsection 3,
9 paragraph "a" or "b".
- 10 *p.* Removal of an officer's communication or control device
11 in violation of section 708.12.
- 12 *q.* Disarming a peace officer of a dangerous weapon in
13 violation of section 708.13.
- 14 *r.* A violation of chapter 708A.
- 15 *s.* A violation of section 708B.1.
- 16 *t.* A violation of chapter 709, except a violation of
17 section 709.4, subsection 1, paragraph "b", subparagraph (3),
18 subparagraph division (d).
- 19 *u.* Kidnapping in the second degree in violation of section
20 710.3.
- 21 *v.* Child stealing in violation of section 710.5.
- 22 *w.* Enticing a minor in violation of section 710.10,
23 subsection 1, 2, or 3.
- 24 *x.* Purchase or sale of individual in violation of section
25 710.11.
- 26 *y.* A violation of chapter 710A.
- 27 *z.* Robbery in the first degree in violation of section
28 711.2.
- 29 *aa.* Extortion in violation of section 711.4, subsection 1,
30 paragraph "a".
- 31 *ab.* Arson in the first degree in violation of section 712.2.
- 32 *ac.* Threats in violation of section 712.8.
- 33 *ad.* Burglary in the first degree in violation of section
34 713.3.
- 35 *ae.* Attempted burglary in the first degree in violation of

1 section 713.4.

2 *af.* Prostitution in violation of section 725.1, subsection
3 2, paragraph "b".

4 *ag.* Pimping in violation of section 725.2, subsection 2.

5 *ah.* Pandering in violation of section 725.3, subsection 2.

6 *ai.* Incest in violation of section 726.2.

7 *aj.* Child endangerment in violation of section 726.6,
8 subsection 4, 5, or 6.

9 *ak.* Multiple acts of child endangerment in violation of
10 section 726.6A.

11 *al.* Wanton neglect of a resident of a health care facility
12 in violation of section 726.7.

13 *am.* Wanton neglect or nonsupport of a dependent adult in
14 violation of section 726.8.

15 *an.* A violation of section 728.12.

16 *ao.* Violation of individual rights in violation of section
17 729A.2.

18 4. If a person commits an offense that requires the person
19 to register as a sex offender under chapter 692A, a standard
20 sentence shall not change the requirement to register or change
21 the duration of registration. However, if the person is no
22 longer required to serve a special sentence under chapter 903B
23 due to the imposition of a standard sentence, the duration of
24 registration shall not be less than the period specified in
25 section 692A.106, subsection 1.

26 Sec. 6. Section 901.11, Code 2017, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 4. At the time of sentencing, the court
29 shall determine when a person convicted of robbery in the first
30 degree as described in section 902.12, subsection 4, shall
31 first become eligible for parole or work release within the
32 parameters specified in section 902.12, subsection 4, based
33 upon all pertinent information including the person's criminal
34 record, a validated risk assessment, and the negative impact
35 the offense has had on the victim or other persons.

1 Sec. 7. Section 901.12, Code 2017, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. 1A. Effective July 1, 2017, and
4 notwithstanding section 124.413, a person whose sentence
5 commenced prior to July 1, 2017, for a conviction under section
6 124.401, subsection 1, paragraph "c", who has not previously
7 been convicted of a forcible felony, and who does not have a
8 prior conviction under section 124.401, subsection 1, paragraph
9 "a", "b", or "c", shall not be required to serve a minimum term
10 of confinement as prescribed by this section.

11 Sec. 8. NEW SECTION. 901.13 Minimum sentence — parole or
12 work release eligibility — robbery in the first degree.

13 1. Effective July 1, 2017, a person whose sentence commenced
14 prior to July 1, 2017, for a conviction under section 711.2,
15 who has not previously been convicted of a forcible felony,
16 shall first be eligible for parole or work release after the
17 person has served one-half of the minimum term of confinement
18 prescribed in section 902.12.

19 Sec. 9. Section 902.12, Code 2017, is amended by adding the
20 following new subsection:

21 NEW SUBSECTION. 4. A person serving a sentence for a
22 conviction for robbery in the first degree in violation of
23 section 711.2 for a conviction that occurs on or after July 1,
24 2017, shall be denied parole or work release until the person
25 has served between one-half and seven-tenths of the maximum
26 term of the person's sentence as determined under section
27 901.11, subsection 4.

28 EXPLANATION

29 The inclusion of this explanation does not constitute agreement with
30 the explanation's substance by the members of the general assembly.

31 This bill relates to criminal sentencing by modifying
32 criminal penalties for cocaine base, making inapplicable
33 certain provisions relating to mandatory sentences, mandatory
34 minimum sentences, limitations on parole and work release, and
35 limitations on earned time.

1 COCAINE BASE. The bill increases the amounts of controlled
2 substances containing cocaine base (crack cocaine) that
3 determine the criminal penalty for certain offenses. Under
4 the bill, if a person unlawfully manufactures, delivers,
5 or possesses with the intent to manufacture or deliver a
6 controlled substance containing cocaine base, or unlawfully
7 acts with, enters into a common scheme or design with, or
8 conspires with one or more persons to manufacture, deliver,
9 or possess with the intent to manufacture or deliver such
10 a controlled substance, the person commits the following
11 offenses: a class "B" felony punishable by confinement of no
12 more than 50 years and a fine of not more than \$1 million if the
13 controlled substance containing cocaine base is more than 250
14 grams rather than the current more than 50 grams; a class "B"
15 felony punishable by confinement of no more than 25 years and a
16 fine of not less than \$5,000 but not more than \$100,000 if the
17 controlled substance is more than 50 grams but not more than
18 250 grams rather than the current more than 10 but not more
19 than 50 grams; or a class "C" felony punishable by a fine of not
20 less than \$1,000 but not more than \$50,000 if the controlled
21 substance containing cocaine base is 50 grams or less rather
22 than the current 10 grams or less.

23 CERTAIN DRUG OFFENSE SENTENCES THAT COMMENCED PRIOR TO JULY
24 1, 2017. Effective July 1, 2017, the bill provides that a
25 person whose sentence commenced prior to July 1, 2017, for a
26 conviction under Code section 124.401(1)(c) (class "C" felony
27 small quantity, drug manufacturing, delivery, or possession
28 with intent to manufacture or deliver offenses), who has not
29 been previously convicted of a forcible felony, and who does
30 not have a prior conviction under Code section 124.401(1)(a),
31 (b), or (c), shall not be required to serve a minimum term of
32 confinement as prescribed by Code section 124.413.

33 CERTAIN DRUG OFFENSE SENTENCES BEING SERVED ON OR AFTER JULY
34 1, 2017. A person serving a sentence for a conviction under
35 Code section 124.401(1)(c) (class "C" felony, small quantity,

1 drug manufacturing, delivery, or possession with intent to
2 manufacture or deliver), shall not be required to serve a
3 minimum term of confinement as prescribed by Code section
4 124.413, if the person has not previously been convicted of a
5 forcible felony.

6 STANDARD SENTENCE. As used in the bill, "standard sentence"
7 means a sentencing option whereby the court at sentencing
8 allows a person to be sentenced within the parameters
9 of the misdemeanor or felony offense classification and
10 makes inapplicable other provisions, or any combination
11 of such provisions, that would otherwise have the effect
12 of mandating a term of confinement, lengthening the term
13 of confinement, limiting the accumulation of earned time
14 pursuant to Code section 903A.2, subsection 1, paragraph "b",
15 limiting eligibility for parole or work release, or imposing
16 an additional sentence commencing upon completion of the
17 underlying sentence pursuant to Code chapter 903B.

18 The court may impose a standard sentence pursuant to the
19 bill if the court finds all of the following: a compelling
20 reason that imposing a sentence other than a standard sentence
21 would result in a substantial injustice to the defendant, and a
22 sentence other than a standard sentence is not necessary for
23 the protection of the public.

24 If a person is sentenced to a term of confinement under
25 a standard sentence classified as a felony, the person shall
26 be sentenced as provided in Code section 902.9 applicable for
27 that felony classification, and if the person is sentenced to a
28 term of confinement under a standard sentence classified as a
29 misdemeanor, the person shall be sentenced as provided in Code
30 section 903.1, and confined as provided in Code section 903.4.

31 The bill lists numerous criminal offenses that are not
32 eligible for the imposition of a standard sentence.

33 The bill provides that if a person commits an offense that
34 requires the person to register as a sex offender, a standard
35 sentence shall not change the requirement to register or change

1 the duration of registration. However, if the person is no
2 longer required to serve a special sentence under Code chapter
3 903B due to the imposition of a standard sentence, the duration
4 of registration shall not be less than the period specified in
5 Code section 692A.106(1) which is 10 years.

6 ROBBERY IN THE FIRST DEGREE SENTENCES THAT COMMENCED PRIOR
7 TO JULY 1, 2017. Effective July 1, 2017, the bill provides
8 that a person whose sentence commenced prior to July 1, 2017,
9 for a robbery in the first degree conviction under Code section
10 711.2, who has not previously been convicted of a forcible
11 felony, shall first be eligible for parole or work release
12 after the person has served one-half of the minimum term of
13 confinement prescribed in Code section 902.12.

14 ROBBERY IN THE FIRST DEGREE. The bill provides that an
15 offender serving a sentence for a conviction for robbery in
16 the first degree for a conviction that occurs on or after July
17 1, 2017, shall serve between 50 and 70 percent of a 25-year
18 class "B" felony sentence. In determining when the person
19 first becomes eligible for parole or work release within the
20 parameters of 50 and 70 percent of the 25-year sentence,
21 the sentencing court shall base its determination upon all
22 pertinent information including the person's criminal record, a
23 validated risk assessment, and the negative impact the offense
24 has had on the victim or other persons.